

DPE 022/002/2018

19 July 2018

To: Accounting Officers

DPER Circular: 11/2018

**Minute of the Minister for Finance and Public Expenditure and Reform in response to the
Committee of Public Accounts Periodic Report September – October 2017**

A Dhuine Uasail,

I am directed by the Minister for Finance and Public Expenditure and Reform to enclose, for your information and guidance, a copy of the Minute of the Minister for Finance and Public Expenditure and Reform in response to the Committee of Public Accounts Periodic Report September – October 2017.

Issues raised

The Minute of the Minister addresses a number of issues, including;

- The re-opening of Garda stations;
- Procurement compliance in Tusla; and
- Non-compliance with public pay policies in the HSE.

Enquiries

Enquiries in relation to this Circular can be addressed to Government Accounting Unit, Department of Public Expenditure and Reform, telephone: +353 1 6767571 or email: govacc@per.gov.ie.

Mise le Meas,

Robert Watt
Secretary General

Minute of the Minister for Finance and Public Expenditure and Reform in response to the Committee of Public Accounts Periodic Report - January 2018

The Minister for Finance and Public Expenditure and Reform has examined the Committee's Report and has taken account of its recommendations and conclusions.

The Committee's recommendations, which are outlined below, have been grouped with regard to the six organisations the Committee met between September and October, 2017, following up on matters arising from previous meetings and examining issues emerging from the 2016 financial statements audited by the C&AG. The Minister's response is as follows:

An Garda Síochána

Recommendation B.1

The Committee recommends that the ultimate decision to re-open Garda stations should take into account the best use of Garda resources, use of State funds and policing priorities.

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Justice and Equality and An Garda Síochána that it is for the Garda Commissioner to determine Garda station openings and in doing so accepts that the best use of resources including State funds and policing priorities are taken into account. An Garda Síochána notes that they must be conscious of Government policy in this area. In that regard it is important to emphasise that the decision to open six stations on a pilot basis stemmed from Government policy, as provided for in the Programme for Government. This Government policy seeks, through the pilot, to consider possible positive impacts that such openings would have on reducing criminal activity, with special emphasis on burglaries, theft and public order.

Recommendation B.2

The Committee recommends that the implications of the review to re-open Garda stations be considered in the context of the 2018 Estimates process.

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Justice and Equality and An Garda Síochána that this recommendation is accepted in principle. The 2018 estimate provision for An Garda Síochána is long since complete. However, over recent months, An Garda Síochána and the Office of Public Works have been working to quantify the final projected costs to reopen all six stations. An Garda Síochána indicates that the estimated costings produced will be reviewed and discussed with

the sanctioning authorities, the Departments of Justice and Equality and Public Expenditure and Reform, once concluded.

Recommendation B.3

The Committee recommends that before a final decision is made to commence the re-opening of Stepside Garda station, a review should be undertaken by the Office of Public Works (OPW) regarding (i) the suitability of the Stepside Garda station building, (ii) the estimated cost involved renovating the building, and (iii) the possible requirement for a new building in the future.

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Justice and Equality and An Garda Síochána that this recommendation is accepted not only for the Stepside station but for all those stations that would feature in a pilot. In that regard An Garda Síochána indicates that it continues to engage with the Office of Public Works on the scale, nature, extent and projected costs associated with the stations included in the pilot reopening programme. Additionally, An Garda Síochána continues to monitor broader infrastructural developments in areas adjacent to the six stations in the pilot.

An Garda Síochána further notes that it is also important to emphasise that Government policy in this area sought to establish the nature of positive impacts on reducing crime through the reopening of six stations. An Garda Síochána Analysis Service had completed benchmark data prior to the closure of these stations. This data would therefore be used to consider the impact of the reopening of these six stations.

Health Information and Quality Authority (HIQA)

Recommendation B.4

The Committee recommends that HIQA carries out an examination of the cost of agency staff to fill vacant posts and the challenges of relying on agency staff, with a view to determining the most cost-effective method of delivering its services.

The Minister for Finance and Public Expenditure and Reform is informed that the Department of Health accepts this recommendation with regard to HIQA carrying out an examination of the cost of agency staff.

Recommendation B.5

The Committee recommends that the Department of Public Expenditure and Reform promptly evaluates outstanding requests for additional staff so that HIQA can fulfil its function with undue or unnecessary reliance on agency staff.

The Minister for Finance and Public Expenditure and Reform notes this recommendation with regard to evaluating requests for additional staff.

The situation in relation to the sanctioning of posts which prevailed during 2016, the period which was the subject of review by the PAC, required the Department of Public Expenditure and Reform to sanction each individual position in HIQA. This is no longer the case, and sanction for the approval of positions at the level of Principal Officer (Standard scale) and below for HIQA was delegated to the Department of Health in 2017. There are, accordingly, no requests for additional staff currently awaiting a decision from the Department of Public Expenditure and Reform.

The Minister for Finance and Public Expenditure and Reform has been informed by the Department of Health that the headcount in HIQA has risen from 198 at end 2016 to 216 at end 2017.

Recommendation B.6

The Committee recommends that a more comprehensive breakdown of expenditure on consultancy services is included in HIQA's future annual accounts.

The Minister for Finance and Public Expenditure and Reform is informed that the Department of Health accepts this recommendation with regard to including a more comprehensive breakdown of expenditure on consultancy services in HIQA's future annual accounts and will engage on this matter with HIQA in the coming period.

Industrial Development Authority (IDA)

Recommendation B.7

The Committee recommends that the IDA review and improve the methodology used to verify the number of jobs created by its client companies. The Committee recommends that the IDA liaise with other data collection agencies to develop a more robust methodology for verifying the number of jobs, and reduce the current dependency on self-assessment.

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Business, Enterprise and Innovation (DBEI) that it does not accept this recommendation.

The Minister is informed by that Department that an Annual Employment Survey (AES) is undertaken in conjunction with IDA Ireland and Enterprise Ireland. The survey, which was introduced in 1972, continues to provide valuable employment data – on the basis of a tried and tested methodology – across national, sectoral and regional levels.

The AES is undertaken each year with all companies that have been in receipt of support from the Enterprise agencies. Firms are requested to supply information on the number of employees in:

- (i) full time jobs with contracts of at least nine months' duration; and
- (ii) part time, temporary and short term contracts of employment.

The Minister is further informed by the DBEI, that it is important to note, that while the AES allows for self-reporting by companies, all the information received is carefully assessed and analysed. There is also direct engagement with firms in respect of any anomalies or discrepancies that are identified.

The advantages of the AES include its efficiency, cost-effectiveness and ease-of-use. All these factors help minimise the administrative burden for the companies concerned and – crucially – maximise the response rate. This helps ensure we are equipped with the most comprehensive employment information available.

The Minister is further informed by the DBEI that it is important to emphasise that the AES is entirely voluntary in nature. Changing to a more cumbersome or onerous data verification model would therefore risk significantly reducing the participation rate of the firms concerned, leading to an attendant decrease in the level of information received through the AES.

The Minister is further informed by the DBEI that while the Minister for BEI shares the Committee's view that job-verification mechanisms be of the highest-standard, she retains full confidence in the AES and the methodology underpinning it. Its track record over many years of identifying employment trends, and the healthy participation rate it continues to elicit, reflect its importance as an ongoing source of employment information. There are, therefore, no plans in place to revise the AES methodology and the Minister for BEI cannot accept the recommendation of the Committee. The Minister is further informed by DBEI that, that Department will, however, continue to keep this under review.

Transport Infrastructure Ireland (TII)

Recommendation B.8

The Committee recommends that TII publish post-project reviews of its public private partnership (PPP) projects to ensure that information regarding these contracts is in the public domain and available for scrutiny, as per the recommendation of the C&AG.

The Minister for Finance and Public Expenditure and Reform accepts this recommendation.

An inter-Departmental and Agency Group was established in 2017 to make recommendations on the future role of PPPs, in the context of the new 10 year National Development Plan. The group comprised relevant officials from Departments and agencies with experience and expertise of procuring projects by PPP. As part of the group's remit, they were considering the recommendations made in the Public Investment Management Assessment (PIMA) published on 10 November 2017. One of the PIMA recommendations was that Departments should publish ex post reviews of projects in order to increase transparency and to help improve the design of future projects.

The inter-Departmental and Agency Group's deliberations was completed and a summary of their recommendations was published in the 10-year National Development Plan, published on 16 February 2018. The group recommended the publication of post-project reviews.

The policy on publication of post project reviews for all public investment projects, including PPPs, has been implemented with effect from 26th March 2018. DPER Circular 06/2018: *The Public Spending Code: Publication of Post Project Reviews* requires that any post project reviews undertaken from this date should be published at the earliest possible opportunity, following completion. Furthermore, in the case of any post project reviews already undertaken in respect of PPP projects, it is requested that such reviews also be published as soon as possible.

This new policy requires sponsoring authorities to publish their post-project reviews, subject to any necessary redactions to protect commercially sensitive data. The new policy will be incorporated into the updated PPP policy guidelines and Public Spending Code (PSC). The revised PPP policy guidelines are currently being reviewed by the Minister.

Recommendation B.9

The Committee recommends that TII implement stronger enforcement mechanisms to ensure the collection of unpaid M50 tolls and fines.

The Minister for Finance and Public Expenditure and Reform is informed that TII accepts the spirit of this recommendation of the PAC.

TII will continue to apply strong enforcement mechanisms and will endeavour to increase efforts to collect unpaid tolls and fines. The compliance rate for the payment of tolls is 97% which is on a par with the compliance rate achieved by Revenue for Local Property Tax. The stringent enforcement procedures operated by TII have resulted in court judgements overwhelmingly in TII's favour against those who refuse to pay, or come to an agreement in relation to outstanding tolls and fines.

Recommendation B.10

The Committee recommends that TII avail of road safety reports from the RSA to develop performance objectives and inform its future investment priorities.

The Minister for Finance and Public Expenditure and Reform is informed that TII accepts this recommendation, and understands that TII receives and analyses road traffic collision data as it becomes available directly from An Garda Síochána. TII avails of both Garda pulse system data and the subsequent RSA reports to inform its collision analysis and prioritisation of safety schemes.

The Minister is informed by the Department of Transport, Tourism and Sport that TII avails of all RSA safety reports as they become available and will continue to do so. TII will also continue to use road safety benefits as one of the key criteria in prioritising road safety schemes in line with the Department of Transport, Tourism and Sport's Capital Appraisal Framework for Transport Projects and Programmes (2016).

Tusla (Child and Family Agency)**Recommendation B.11**

The Committee recommends that Tusla ensure all arrangements are in place to meet the target of securing service level agreements for 100% of grant funded agencies by Q1 2018.

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Children and Youth Affairs that it accepts this recommendation and that steps are being taken to ensure that arrangements are in place to secure service level agreements for 100% of grant funded agencies in 2018.

The Performance Statement provided by the Minister for Children and Youth Affairs to Tusla under Section 44 of the Child and Family Agency Act, 2013 makes specific reference to findings of the C&AG regarding inadequate monitoring and oversight of grants. In that statement Tusla are required to provide regular updates on progress in respect of initiatives being developed to address financial governance weaknesses.

The Minister is further informed by the Department of Children and Youth Affairs that Tusla provides funding to over 980 agencies with individual grant amounts ranging from in excess of €7m per annum to less than €1,000 per annum.

Tusla has established a Compliance Unit to provide additional assurance through a process of compliance statements and reviews of published financial statements. This unit is concentrating on the largest grant recipients following a risk based strategy. Additionally, a Commissioning Unit has been established which will be working with service managers in 2018 to ensure that contracts are signed with all Agencies.

Recommendation B.12

The Committee recommends that Tusla addresses current weaknesses in its systems to ensure that all of its procurement complies with relevant Department of Public Expenditure and Reform (DPER) policies.

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Children and Youth Affairs that it accepts this recommendation.

The Minister is further informed by that Department that the Performance Statement provided by the Minister for Children and Youth Affairs to Tusla under Section 44 of the Child and Family Agency Act, 2013 makes specific reference to findings of the C&AG regarding non-compliance with procurement rules. In that statement Tusla are required to provide regular updates on progress in respect of initiatives being developed to address financial governance weaknesses.

The Minister is also informed by that Department that Tusla has already undertaken a number of actions to assist in compliance on procurement, including:

- *Establishment of Procurement Support within the Agency*
The Agency has established a small procurement function to support the management and monitoring of contracts. This function works with both the HSE/Health Business

Services and the Office of Government Procurement on procurement related matters and will provide guidance and assistance to Managers and Budget Holders to support compliance with Procurement requirements.

- *Development of a Procurement Plan for the Agency*
The Agency has developed a three year procurement plan in conjunction with HSE's Procurement Service to identify the key procurement requirements of the Agency. This will assist with planning and evaluation of Tusla's requirements and will facilitate timely and appropriate procurement, good governance and value for money.
- *Training*
A Procurement training programme is being implemented for Managers, Budget Holders and relevant staff who have responsibility for non-pay expenditure. This will reaffirm compliance requirements with procurement rules and associated financial regulations.
- *Communication and Data access*
The Agency issues regular communication updates to all staff on procurement requirements. All relevant staff now have access to procurement information on the Agency's Finance Hub which is updated on a regular basis.

The Minister is informed that Tusla will prioritise its procurement and ICT resources to those parts of the procurement process that have the greatest risk from a compliance and value for money perspective.

Recommendation B.13

The Committee recommends that, in order to improve interagency cooperation in the area of child protection, Tusla establishes a clear timeline for the implementation of its action plan for the recommendations of Dr. Shannon's report on the "Audit of Processes and Procedures adopted by members of An Garda Síochána in initiating the provisions of Section 12 of the Child Care Act 1991".

Recommendation B.14

Dr. Shannon's report highlighted a number of matters to be addressed by An Garda Síochána. The Committee recommends An Garda Síochána, with support from Tusla ensures that the relevant recommendations are implemented in a timely manner.

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Children and Youth Affairs that it accepts these recommendations.

The Minister is further informed by that Department that the Minister for Children and Youth Affairs has taken a lead role in relation to data sharing and maintaining momentum between An Garda Síochána (AGS) and Tusla.

Tusla and AGS are currently in the process of agreeing an MOU on information sharing and data protection. The objective of the MOU is to provide absolute clarity and consistency on the purpose, policy, procedures and record management of information shared between Tusla and AGS.

The Children First Joint Working Protocol for An Garda Síochána/Tusla was published earlier this year to reflect the provisions in the Children First Act 2015. This protocol covers respective responsibilities in key areas including:

- Notifications of suspected abuse between both agencies
- Role and function of each agency
- Confidentiality and information sharing
- On-going case management liaison
- Liaison management structures and meetings

Health Service Executive (HSE)

Recommendation B.15

The Committee recommends that the HSE implement without delay the process of appointing a lead Community Health Organisation (CHO) for large voluntary organisations which have different service level agreements with multiple CHOs.

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Health that the HSE accepts this recommendation.

The recommendation relates to situations where there are multi-CHO funded Service Providers (Providers) and in that regard Figure 19.4 in the Chapter 19 - *Management and Oversight of Grants to Health Agencies* - of the C&AG's report for 2016, relating to Enable Ireland is a good example of this type of Service Provider, as it receives funding from eight of the nine CHOs. In this regard the HSE is committed to designating a 'Lead' CHO for each of these types of agencies.

The Lead CHO will effectively undertake a co-ordination function for a number of administrative matters (as opposed to operational matters) in respect of each Service Arrangement (SA).

Recommendation B.16

The Committee recommends that the 320 business cases being reviewed by the HSE regarding non-compliance with public sector pay policies be brought to a conclusion by the HSE and the Department of Public Expenditure and Reform (DPER) by Q2 2018.

The Minister for Finance and Public Expenditure accepts this recommendation. In 2015, the Minister for Public Expenditure and Reform approved D/Health proposals in relation to unsanctioned allowances and related salary issues raised in the 2013 HSE Internal Audit Report in respect of Section 38 agencies, subject to certain conditions. Since then it has been a matter for the Department of Health and HSE to put the revised arrangements in place. Of the original unsanctioned payments noted by the HSE internal audit report, D/Health sought sanction, in accordance with legal advice relating to acquired/contractual rights, for the ongoing payment of a small number of salaries and allowances to staff across 26 agencies on a ring-fenced personal-to-holder basis. D/Health indicated at the time that payment of allowances where staff were not considered to have acquired contractual rights had or would be stopped. It was agreed that D/Health could apply the same process to any future cases that might arise.

In order to help ensure that public pay policy is applied correctly by public employers, the Minister included a section in the Financial Emergency Measures in the Public Interest Act, 2015, section 12, which provides that any contract term giving rise to extra remuneration that has not received the appropriate sanction will be void and the remuneration will in future have to be repaid by any public servant who receives it.

While the Department of Public Expenditure and Reform (DPER) creates the policy on payments and sanctions the salary rates within the Health Sector, it cannot monitor implementation or audit compliance. It is properly a matter in the first instance for the Department of Health and the HSE to ensure that Government policy on pay is being complied with. DPER has supported the work of the Department of Health and the HSE in addressing the payment of unsanctioned amounts being made in the Section 38 (Health Act) Agencies and will continue to do so as appropriate.

The Minister for Finance and Public Expenditure and Reform has recently been advised by the Department of Health that work is underway to bring the review of the outstanding business cases to a conclusion but it is not in a position to accept the timeframe associated with this recommendation.

Significant work has been undertaken by the HSE and the Department regarding non-compliance with public sector pay policy. As at 12th February 2018, a total of 745 business cases have been received by the HSE from Section 38 organisations. 351 of these have been

concluded and the remaining 394 are to be examined and the outcome determined. Given the scale and complexity of this piece of work it is not possible for D/Health to bring the process to a conclusion by Q2 2018.

The Department of Health anticipates that the remaining cases on hand (394) should be concluded by end 2018. It should be noted however that it is possible that further cases may come to light at a later stage, particularly as people come to retire.

Matters arising from correspondence regarding Console

Recommendation B.17

The Committee accepts that there is no legal responsibility on the Department of Health or the HSE to pay monies owed to staff previously employed by Console who were not fully paid for their work with the organisation. However, the Committee remains of the view that an ex-gratia payment should be made in this exceptional case.

The Minister for Finance and Public Expenditure and Reform is not in a position to comment on the matters arising in respect of the organisation Console having regard to the fact that this is a Section 39 of the Health Act 2004 agency and its staff are not accordingly public servants.

Given under the Official Seal of the Minister for Finance
and Public Expenditure and Reform on this the 18 day of
July, 2018.



L.S.

Robert Watt

Secretary General

Department of Public Expenditure and Reform

Robert Watt

18/7/2018